



**California Environmental Protection Agency
Department of Toxic Substances Control**

VARIANCE

Applicant Names:

Variance No. 01-H-VAR-01

Agilent Technologies/
LumiLeds Lighting U.S., LLC
350-370 West Trimble Road
San Jose, California 95153-1008

Effective Date: July XX, 2001

Expiration Date: July XX, 2011

Modification History:

Pursuant to Section 25143 of the California Health and Safety Code, the Department of Toxic Substances Control hereby issues the attached Variance consisting of XX pages to Agilent Technologies/LumiLeds Lighting U.S., LLC

Mr. Jan Radimsky
Chief, Permit Streamlining Branch
Department of Toxic Substances Control

Date:

VARIANCE

1. INTRODUCTION.

Pursuant to Section 25143, Chapter 6.5, Division 20 of the Health and Safety Code (HSC), the California Department of Toxic Substances Control (DTSC) grants a variance to the applicant below to allow operation as an onsite facility. A change of corporate structure at the facility, which had operated under California's lower authorization tiers [Permit by Rule (PBR)], resulted in the creation of a separate legal entity ("new facility") as owners/operator of certain units. Therefore, specified treatment activities at the new facility do not meet the definition of "onsite facility" pursuant to HSC Section 25117.12 and Title 22, California Code of Regulations (22 CCR) Section 66260.10. However, hazardous waste management activities, including waste streams, remain almost the same at the facility. Temporary changes have been made at the facility (waste separation and pH neutralization) until variance authorization is approved to allow treatment to continue in affected units. Upon issuance of the variance, operations will return to that prior to the formation of the new legal entity. The specified units remain on the same contiguous property, are housed in the same building, and treat the same hazardous wastes as before the corporate restructure.

DTSC hereby grants a variance only from the requirements specified herein and only in accordance with all terms and conditions specified herein.

2. IDENTIFYING INFORMATION.

APPLICANT/OWNER/OPERATOR:

Agilent Technologies/LumiLeds Lighting U.S., LLC
350-370 West Trimble Road
San Jose, California 95153-1008

3. TYPE OF VARIANCE.

This variance is an administrative variance from the definition of onsite facility as defined in HCS Section 25117.12 and 22 CCR Section 66260.10. This variance allows Agilent Technologies/LumiLeds Lighting U.S., LLC (Agilent) to be classified as an onsite facility rather than an offsite facility. The facility's operating authorization for hazardous waste management activities is provided in a separate document, Attachment 1.

4. ISSUANCE AND EXPIRATION DATES.

DATE ISSUED: July XX, 2001 EXPIRATION DATE: July XX, 2011.

5. APPLICABLE STATUTES AND REGULATIONS.

The hazardous waste that is the subject of this variance is fully regulated under HSC, Section 25100, et seq. and 22 CCR Division 4.5 except as specifically identified in Section 8 of this variance.

6. FINDINGS/DETERMINATIONS.

DTSC has determined that the variance applicant meets the requirements set forth in HSC Section 25143 for a variance from specific regulatory requirements as outlined in Section 8 of this variance.

Upon issuance of the administrative variance, the Agilent/LumiLeds operation is considered an onsite activity. As an onsite facility, the hazardous waste management activity managed by Agilent/LumiLeds is not regulated under the federal act, and will be authorized by PBR. The hazardous waste management activity is insignificant as a potential hazardous to human health and safety or to the environment when managed in accordance with the conditions, limitations, and other requirements specified in the PBR authorization documents.

7. PROVISIONS SUBJECT TO VARIANCE.

DTSC, subject to all terms and conditions herein, grants a variance from the definition of "onsite facility" as defined in HSC Section 25117.12 and 22 CCR Section 66260.10. Specifically, Agilent, under the signed legal agreement between Agilent Technologies, Inc. and LumiLeds Lighting U.S., LLC (Attachment 2), has operational control of the hazardous waste produced and treated at the 350-370 West Trimble Road, San Jose, California site, and is considered to be the generator of waste.

8. SPECIFICATIONS OF THE CONDITIONS, LIMITATIONS, OR OTHER REQUIREMENTS.

Agilent shall be subject to the following conditions:

- a) Agilent shall maintain a copy of the signed agreement, Attachment 2, at its Trimble Road location for review by DTSC or other regulatory agencies. Termination of the above agreement prior to expiration of this variance will result in the automatic revocation of this variance.
- b) Agilent shall immediately notify DTSC of any additional unit(s) that require authorization under PBR, Conditional Authorization (CA), and/or Conditional Exemption (CE) prior to installation and use of the unit(s).
- c) Agilent shall submit notification for authorization under PBR, CA, and/or CE to the appropriate Certified Unified Program Agencies (CUPA) office upon approval by DTSC. Agilent shall maintain all financial responsibility as required by these onsite tiers.

- d) All correspondence and notifications shall be directed to the following office:

Mr. Jan Radimsky, Chief
Permit Streamlining Branch
1001 I Street
P.O. Box 806
Sacramento, California 95812-0806
Attn: Tiered Permitting Notification for Variance

9. DISCLAIMER.

The issuance of this variance does not relieve Agilent of the responsibility for compliance with Division 20, Chapter 6.5, HSC, or the regulations adopted thereunder, and any other laws and regulations other than those specifically identified in Section 8 of this variance. Agilent is subject to all terms and conditions herein. The granting of this variance confers no relief from compliance with any federal, state or local requirements other than those specifically provided herein.

The issuance of this variance does not release Agilent from any liability associated with the management of hazardous waste, except as specifically provided herein and subject to all terms and conditions of this variance.

10. VARIANCE MODIFICATION OR REVOCATION.

This variance is subject to review at the discretion of DTSC and may be modified or revoked by at any time pursuant to HSC Section 25143.

11. CEQA DETERMINATION.

Title 14, Section 15061(b)(3), California Code of Regulations. With certainty, no possibility of a significant effect on the environment.

Approved:

Date

Mr. Jan Radimsky, P.E., Chief
Permit Streamlining Branch
Hazardous Waste Management Program
Department of Toxic Substances Control



Department of Toxic Substances Control



Winston H. Hickox
Agency Secretary
California Environmental
Protection Agency

Edwin F. Lowry, Director
1001 "I" Street, 25th Floor
P.O. Box 806
Sacramento, California 95812-0806

Gray Davis
Governor

NOTICE OF EXEMPTION

To: Office of Planning and Research
1400 Tenth Street, Room 222
Sacramento, CA 95814

From: Department of Toxic Substances Control
1001 I Street
Sacramento, CA 95814

Project Title: Administrative Variance for Agilent Technologies/LumiLeds Lighting U.S., LLC

Project Location - Specific: 350 - 370 West Trimble Road California 95131

Project Location - City: San Jose

Project Location - County: Santa Clara

Description of Project: Agilent Technologies/LumiLeds Lighting U.S., LLC has requested an administrative variance from certain requirement of the California hazardous waste control laws and regulations at its 350-370 Trimble Road Facility located in San Jose, California. The purpose of the variance is as follows:

BACKGROUND:

Agilent Technologies (Agilent) has formed a Joint Venture company, LumiLeds Lighting U.S. LLC (LumiLeds). LumiLeds was created from a former Agilent Business Unit.

Agilent employees provide hazardous waste management services for LumiLeds under a service level agreement for the wastewater treatment system at the site. The facility operations and business arrangement between Agilent and LumiLeds are set forth in writing and is incorporated into the variance as an attachment. LumiLeds operations have not changed (same units, wastestream, operators, etc.) from those that occurred under the previous corporate structure [Agilent].

Currently, all solid hazardous wastes are managed separately for each company. Agilent operates two (2) units under Permit by Rule (PBR); LumiLeds operates three (3) units under PBR. PBR is a California-only [non-RCRA] onsite [wastes that are generated at the facility where they are treated] treatment authorization for specific waste streams and treatment processes, such as concentrated metal-bearing wastes, concentrated acids or alkalis, wastes posing multiple hazards, and silver recovery.

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our Web-site at www.dtsc.ca.gov.

PROPOSAL:

Agilent is proposing an administrative variance to operate the hazardous wastewater treatment system. The variance would allow wastes from both Agilent and LumiLeds to be treated in the unit currently owned by LumiLeds. The variance would allow for operations to be reinstituted as they had existed prior to the creation of the joint venture. Therefore, there is no net change to the facility's hazardous wastes or treatment processes. The facility will continue to operate under the PBR-tier authorization.

Name of Public Agency Approving Project: Department of Toxic Substances Control
California Environmental Protection Agency

Name of Person or Agency Carrying Out Project: Mr. Steve LaFrienza or Ms. Barrie Simpson, Agilent Technologies, Inc.

Exempt Status: Title 14, Section 15061(b)(3), California Code of Regulations. With certainty, no possibility of a significant effect on the environment.

Reasons Why Project is Exempt: The variance is an administrative variance that designates Agilent as the responsible legal entity for facility operations at the designated site, pursuant to the attached contract between Agilent and LumiLeds and as specified in variance conditions. The facility's hazardous waste management activities are authorized under a separate, required, authorization [Permit-by-Rule (PBR)] in which Agilent has been required to be the responsible, legal entity. The facility will operate as it had prior to the formation of the joint venture, therefore, there are no changes in hazardous waste or treatment processes as a result of the variance.

Lead Agency Contact Person: Valetti Lang

Telephone: (916) 445-4413

Signature: _____
Mr. Jan Radimsky, P.E., Branch Chief

Date: _____

Date received for filing at OPR: